



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE ROGERS COURT SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC

Introduction

This hearing was scheduled to deal with a tenant's application for a Monetary Order for compensation for damages or loss under the Act, regulations or tenancy agreement. The tenant appeared at the hearing but there was no representation on part of the landlord. I proceeded to explore service of hearing documents upon the landlord with the tenant.

The tenant testified that he sent the hearing package to the landlord within a few days of filing by way of "certified mail" and evidence was sent to the landlord via "certified mail" on an unspecified date. I noted that the tenant had not provided copies of registered mail receipts prior to the hearing and I asked the tenant to provide the tracking numbers orally. The tenant stated he did not have the receipts in front of him and he was unable to provide tracking numbers during the hearing. The tenant indicated the receipts were in storage and he did not know how long it would take for him to find them as he did not know of their exact location. The tenant stated that he was unaware that he was required to prove service at the hearing. The tenant also stated that the landlord had sent him a letter to indicate the landlord was unable to attend the hearing on the date scheduled and the tenant assumed the landlord had also provided a copy of the letter to the Residential Tenancy Branch. After reviewing the file before me and the Branch's electronic records I informed the tenant that no correspondence had been received from the landlord and a request for rescheduling had not been made.

Residential Tenancy Policy Guideline 12: *Service provisions* provide information and policy statements with respect to service requirements. Under part 15, the policy guideline provides, in part, the following:

- Where the respondent does not appear at a dispute resolution hearing, the applicant must be prepared to prove service of the notice of hearing package.

- Proof of service by Registered Mail should include the original Canada Post Registered Mail receipt containing the date of service, the address of service, and that the address of service was the person's residence at the time of service, or the landlord's place of conducting business as a landlord at the time of service as well as a copy of the printed tracking report.
- Failure to prove service may result in the matter being dismissed, with or without leave to reapply. Adjournments to prove service are given only in unusual circumstances.

The Dispute Resolution Fact Sheet given to every applicant also provides, in part:

- under the heading Serving the Hearing Package: "The arbitrator may dismiss the application if they are not satisfied that the applicant properly served the respondent(s) with the Hearing Package."
- Under the heading Serving and Submitting Evidence: "The Rules allow an arbitrator to refuse to consider evidence that was not served..."

In the absence of registered mail receipt(s), or oral testimony as to the date of service and registered mail tracking numbers, I found the tenant did not meet his burden to prove service of hearing documents and evidence upon the landlord in a manner that complies with the Act and Rules of Procedure. I find the tenant's statement that he was unaware of his burden to prove service is not an unusual circumstance and was avoidable had the familiarized himself with the information provided by the Residential Tenancy Branch. Accordingly, I find an adjournment is not warranted in these circumstances and I dismiss this application with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 20, 2017

Residential Tenancy Branch